IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12129 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KIRITKUMARA KANTILAL SHAH - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR UMANG K CHOKSI for Petitioner(s) : 1,
MR NEERAJ SONI A.G.P. for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 04/05/2007

ORAL JUDGMENT

1. **RULE**. Mr. Neeraj Soni learned A.G.P., waives service of rule on behalf of the respondents. At the request of the learned advocates for the parties, the matter is taken up for final hearing today.

2. In this petition, the petitioner has challenged the notice issued by the Deputy Collector respondent no. 3 herein dated 15th/17th July, 2006 calling upon the petitioner to pay deficit court fees of Rs.4,52,605=00 on the ground that the valuation of the property stated by the petitioner was on lower side. The grievance of the petitioner is that the property was purchased in auction sale held by the Gujarat State Finance Corporation and, therefore, such valuation could not have been questioned by the respondents.

2. I have heard Mr. Choksi learned advocate for the petitioner and Mr. Neeraj Soni learned A.G.P., for the respondents. Mr. Choksi has submitted that the property is purchased by the petitioner in auction sale held by the Gujarat State Finance Corporation and, therefore, there is no reason to doubt the valuation. This submission has some force. In proviso of Section 32A(1) of the Bombay Stamps Act, it is clearly stated that for the purpose of sub-section of the said Section, consideration set forth in an instrument executed by the State Government, the Central Government, a local authority, Gujarat Housing Board, Gujarat Slum Clearance Board or Gujarat Industrial Development Corporation,

shall be deemed to be the true market value of the property, which is the subject matter of such instrument. The Gujarat State Finance Corporation is also similar entity created under the Statute and, therefore, there is no question of doubting the consideration set forth in an instrument executed with it. Mr. Chokshi has referred to the order passed by the learned Single Judge of this Court dated 6th September, 2006 in Special Civil Application No. 16089/2006. By the said order, in similar circumstance, the learned Single Judge by making observations in paragraph 4 has disposed of the matter directing the concerned authority to hear the petitioner. This order was passed upon the willingness shown by the petitioner to go to the said authority. Paragraph 4 is reproduced verbatim herein below.

> "4. In view of this submission of the learned Government Pleader, this petition is disposed of with a direction to the respondent no.1 authority to decide the impugned notice dated 15th February, 2006 as expeditiously as possible and keeping in mind the aforesaid judgment delivered by this Court and such other relevant facts which are stated in the memo of the petition and which may be urged at the time of hearing. Learned counsel for the petitioner submitted that the petitioner is ready and willing to approach the concerned respondent authority on 25th September, 2006. The learned Government Pleader submitted that on 25th September, 2006, initially hearing will take place and convenient date, if at all, is to be given, shall be given to the petitioner. Rule is discharged with no order as to costs.

3. In the present case also the petitioner expresses willingness to approach the concerned respondent authority within 15 days from the date of this order in response to the aforesaid notice dated 15th/17th July, 2006. Hence, he is permitted to approach the respondent authority. The present petition will be treated as reply to the said show cause notice. Thereafter the concerned respondent authority will intimate the date of hearing to the petitioner in advance and after affording to him proper opportunity of hearing, will decide the issue in accordance with law and intimate the decision within 15 days thereafter.

4. With the aforesaid directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[Akshay H. Mehta, J.]

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